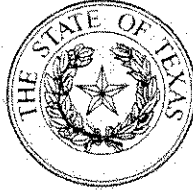


State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

September 29, 2015

Tucker Royall, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

Re: **SOAH Docket No. 582-14-4716; TCEQ Docket No. 2013-1653-MSW-E;
Executive Director of the Texas Commission on Environmental Quality v.
Keywinn Development**

Dear Mr. Royall:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision on Summary Disposition and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than October 19, 2015. Any replies to exceptions or briefs must be filed in the same manner no later than October 29, 2015.

This matter has been designated **TCEQ Docket No. 2013-1653-MSW-E; SOAH Docket No. 582-14-4716**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs and replies along with certification of service to the above parties shall be filed with the Chief Clerk of the TCEQ electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Kilgore", with a long horizontal flourish extending to the right.

Shannon Kilgore
Administrative Law Judge

Enclosures
cc: Mailing List

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 322-2061

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: KEYWINN DEVELOPMENT LLC

SOAH DOCKET NUMBER: 582-14-4716

REFERRING AGENCY CASE: 2013-1653-MSW-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ WILLIAM G. NEWCHURCH**

REPRESENTATIVE / ADDRESS

PARTIES

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TCEQ EXECUTIVE DIRECTOR

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TCEQ PUBLIC INTEREST COUNSEL

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skeys624@gmail.com

KEYWINN DEVELOPMENT LLC

**SOAH DOCKET NO. 582-14-4716
TCEQ DOCKET NO. 2013-1653-MSW-E**

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE STATE OFFICE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY,	§	
Petitioner	§	
	§	
v.	§	OF
	§	
KEYWINN DEVELOPMENT LLC,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION ON SUMMARY DISPOSITION

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) seeks to assess \$7,500 in administrative penalties, with all but \$3,600 deferred, and to require Keywinn Development, LLC (Respondent) to undertake corrective action for a violation of the Commission's rules regarding municipal solid waste.

The undersigned Administrative Law Judge (ALJ) finds there are no remaining contested facts at issue and determines that summary disposition should be rendered in the ED's favor as a matter of law. The ALJ recommends that the Commission:

- conclude that Respondent committed the violations;
- find that an administrative penalty of \$7,500 was calculated according to the TCEQ penalty policy and comports with applicable statutory and regulatory authority;
- determine that the recommended corrective actions are necessary and appropriate;
- order that Respondent undertake the corrective actions;
- determine that deferral of all but \$3,600 of the administrative penalty is appropriate; and
- assess an administrative penalty of \$7,500, but defer all but \$3,600 of that amount (with the deferral contingent on Respondent's performance of the other requirements of the order).

II. PROCEDURAL HISTORY AND JURISDICTION

On January 31, 2014, the ED filed the Executive Director's Preliminary Report and Petition (EDPRP). The ED alleged that Respondent had violated provisions of the Commission's rules governing municipal solid waste. Respondent requested a hearing. The matter was referred to the State Office of Administrative Hearings (SOAH) on August 1, 2014, for the assignment of an ALJ to conduct a hearing and issue a proposal for decision (PFD). On August 7, 2014, the ED issued a notice of hearing for a preliminary hearing to be conducted on September 4, 2014, at SOAH. ALJ William Newchurch¹ convened the preliminary hearing, admitted parties, and set the hearing on the merits for January 13, 2015.

On January 9, 2015, the ED filed an agreed motion for approval of stipulations and abatement of the case. The motion was granted in its entirety. The parties stipulated to all matters relevant to the ED's case-in-chief. In Order No. 2, ALJ Newchurch approved the stipulations. Further, the ED and Respondent entered into a written Rule 11 agreement whereby Respondent agreed to be bound by whatever determination the TCEQ financial department made regarding Respondent's eligibility under the TCEQ's Financial Inability to Pay (FIP) Program. This case remained in abatement for many months to allow time for a financial analysis under the FIP Program and the parties to finalize a settlement agreement. The financial analysis is complete, and the TCEQ financial department has determined that Respondent is eligible for deferral of all but \$3,600 of the penalty. However, the parties have not entered into an agreed order to resolve this case.

On July 2, 2015, the ED filed a status report requesting that the abatement of this case end and that the ED be allowed to file a motion for summary disposition. On July 17, 2015, ALJ Newchurch granted the request, lifting the abatement of the proceedings in this case. The

¹ This matter has since been re-assigned to the undersigned ALJ.

ED filed its Motion for Summary Disposition (MSD), based on the parties' stipulations, on August 20, 2015. Respondent did not file a response to the MSD.²

III. LEGAL GROUNDS FOR SUMMARY DISPOSITION

A motion for summary disposition may be granted if the moving party shows that it is entitled to relief as a matter of law. The Commission's rule on summary disposition is found at 30 Tex. Admin. Code § 80.137. The rule provides, in pertinent part:

Summary disposition shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records if any, on file in the case at the time of hearing, or filed thereafter and before disposition with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response.³

Subject to the judge's approval, the parties may stipulate to any factual, legal, or procedural matters.⁴

IV. ANALYSIS

The ED's MSD is based on the stipulations filed by the parties on January 9, 2015. The stipulations were part of a compromise to potentially avoid a hearing on the merits and allow the ED time to review records regarding Respondent's financial ability to pay the administrative penalty. The stipulations were executed by a staff attorney for the ED and Steve A. Keys, Director of Respondent.⁵

² The response was due fourteen days following receipt of the MSD. Order No. 6.

³ 30 Tex. Admin. Code § 80.137(c).

⁴ 1 Tex. Admin. Code § 155.417.

⁵ MSD at Ex. 3.

The ED attached 9 exhibits to the MSD, including the stipulations.⁶ Because Respondent failed to respond to the Motion, the exhibits are admitted. Findings based on the stipulations and other exhibits are fully set forth in the Findings of Fact and Conclusions of Law in the Proposed Order. The stipulations establish the following facts:

1. Respondent owns property with an unauthorized municipal solid waste site located at 105 Dennis Road in Weatherford, Parker County, Texas (the Site). The Site involves the management and/or the disposal of municipal solid waste (MSW) as defined in Tex. Health & Safety Code ch. 361.
2. During a record review investigation conducted on August 19, 2013, TCEQ staff documented that Respondent violated 30 Texas Administrative Code §§ 330.7(a)⁷ and 330.15(c)⁸ by failing to prevent the unauthorized disposal of MSW. Specifically, approximately 18,003 cubic yards (3,600 tons) of MSW including asphalt shingles, 55 wood pallets, 40 cubic yards of plastic and wood construction debris, and a plastic tote were disposed of at the Site.
3. The facts and allegations contained in paragraph No. 2 are true and accurate, and Respondent did violate 30 Texas Administrative Code §§ 330.7(a) and 330.15(c), by failing to prevent the unauthorized disposal of MSW.
4. The Respondent and the Executive Director agree to the following corrective measures:⁹
 - a. Immediately upon the effective date of the Commission Order, Respondent shall cease disposing of any additional MSW at the Site;
 - b. Within 45 days after the effective date of the Commission Order, Respondent shall remove all MSW from the Site and dispose of the MSW at an authorized facility;

⁶ The exhibits include: the EDPRP with penalty calculation worksheet (Ex. 1); the Rule 11 Agreement (Ex. 2); the stipulations (Ex. 3); an investigation report (Ex. 4); TCEQ's penalty policy (Ex. 5); Respondent's compliance history report (Ex. 6); an affidavit of Donna Chaffin (Ex. 7); an affidavit of Jennifer Cook (Ex. 8); and proposed findings of fact, conclusions of law, and ordering provisions (Ex. 9).

⁷ This rule provides that no person may cause, suffer, allow, or permit any activity of storage, processing, removal, or disposal of any solid waste unless such activity is authorized by a permit or other authorization from the commission.

⁸ This rule provides that a person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission.

⁹ The Commission is authorized to order a person who violates a statute or rule within the Commission's jurisdiction to take corrective action. Tex. Water Code § 7.073.

c. Within 60 days after the effective date of the Commission Order, Respondent shall submit written certification to demonstrate compliance with Corrective Action Ordering Provisions Nos. 4.a. and 4.b. The certification required by these Corrective Action Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth TX 76118-6951.

5. Based on the facts supporting the violations, the Executive Director recommends that an administrative penalty be imposed pursuant to Texas Water Code § 7.051. The Commission has the authority under Texas Water Code § 7.052 (eff. September 1, 2011) to assess an administrative penalty of up to \$25,000 for each day of each violation.
6. In determining the amount of the penalty, the Commission is required by Texas Water Code § 7.053 to consider:

- a. The nature, circumstances, extent, duration, and gravity of the prohibited act, with special emphasis on the impairment of existing water rights or the hazard or potential hazard created to the health or safety of the public;
 - b. The impact of the violation on:
 - i. air quality in the region;
 - ii. a receiving stream or underground water reservoir;
 - iii. instream uses, water quality, aquatic and wildlife habitat, or beneficial freshwater inflows to bays and estuaries; or
 - iv. affected persons;
 - c. With respect to the alleged violator:
 - i. the history and extent of previous violations;
 - ii. the degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;
 - iii. the demonstrated good faith, including actions taken by the alleged violator to rectify the cause of the violation and to compensate affected persons;
 - iv. economic benefit gained through the violation; and
 - v. the amount necessary to deter future violations; and
 - d. Any other matters that justice may require.
7. Based on the facts supporting the violations, and having considered the above described factors, the ED recommends that Respondent be required to pay an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500).
8. The Executive Director followed an established Penalty Policy approved by the Commission in calculating the penalty in this enforcement action. *See Texas Commission on Environmental Quality Penalty Policy (September 1, 2011).*
9. The Respondent and Executive director agree that the penalty amount of seven thousand five hundred dollars (\$7,500.00) was calculated consistently with all applicable statutes and rules and is an appropriate penalty in this enforcement matter.

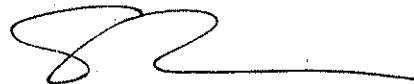
The stipulations establish that there is no genuine issue of material fact regarding Respondents' violations, the appropriateness of the corrective action, or the appropriateness of a

\$7,500 administrative penalty. The ED is entitled to prevail as a matter of law. Further, the summary disposition evidence establishes that, due to Respondent's financial condition, all but \$3,600 of the administrative penalty should be deferred under the TCEQ FIP Program.¹⁰

V. CONCLUSION

The ALJ recommends that the Commission find the violations occurred, assess an administrative penalty of \$7,500, order the corrective actions recommended by the ED, and defer all but \$3,600 of the penalty (with the deferral contingent on Respondent's performance of the other requirements of the order).

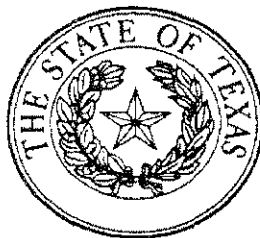
SIGNED September 29, 2015.



**SHANNON KILGORE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

¹⁰ MSD at Ex. 7.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER
ASSESSING ADMINISTRATIVE PENALTIES AGAINST
AND ORDERING CORRECTIVE ACTION BY
KEYWINN DEVELOPMENT LLC
TCEQ DOCKET NO. 2013-1653-MSW-E
SOAH DOCKET NO. 582-14-4716**

On _____, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's Preliminary Report and Petition (EDPRP) recommending that the Commission enter an order assessing administrative penalties against and requiring corrective action by Keywinn Development, LLC (Respondent). A proposal for decision (PFD) was presented by Shannon Kilgore, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH).

After considering the ALJ's PFD, the Commission adopts the following findings of fact and conclusions of law:

I. FINDINGS OF FACT

1. Respondent owns property with an unauthorized municipal solid waste site located at 105 Dennis Road in Weatherford, Parker County, Texas (the Site). The Site contains and/or involves the management of municipal solid waste (MSW) as defined in Texas Health & Safety Code chapter 361.

2. During a record review conducted on August 19, 2013, an investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 18,003 cubic yards (3,600 tons) of MSW including asphalt shingles, 55 wood pallets, 40 cubic yards of plastic and wood construction debris, and a plastic tote were disposed of at the Site.
3. On January 31, 2014, the Executive Director (ED) filed the Executive Director's Preliminary Report and Petition (EDPRP), in accordance with Texas Water Code § 7.054.
4. On June 20, 2014, the Respondent filed an answer.
5. On August 1, 2014, the case was referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing.
6. On August 7, 2014, the Commission's Chief Clerk issued notice of the preliminary hearing to Respondent.
7. The August 7, 2014 notice of hearing:
 - a. Indicated the time, date, place, and nature of the hearing;
 - b. Stated the legal authority and jurisdiction for the hearing;
 - c. Indicated the statutes and rules the ED alleged Respondent violated;
 - d. Advised Respondent that failure to appear at the preliminary hearing or the evidentiary hearing in person or by legal representative would result in the factual allegations contained in the notice and the previously filed EDPRP being deemed as true and the relief sought in the notice possibly being granted by default; and
 - e. Included a copy of the ED's penalty calculation worksheet, which shows how the penalty was calculated for the alleged violations.
8. On September 4, 2014, a preliminary hearing was held. Both the ED and Respondent appeared at the hearing. Administrative Law Judge (ALJ) William G. Newchurch presided. The parties agreed to and the ALJ set an evidentiary hearing date of January 13, 2015.
9. On January 7, 2015, Respondent entered into a written agreement with the ED. Respondent agreed to stipulate to the alleged violations, the ED's recommended corrective action, and the proposed penalty. Respondent also agreed to abide by TCEQ staff's determination regarding whether Respondent qualified under the financial inability to pay (FIP) Program and to what extent. Respondent agreed to sign an agreed order based on the stipulations and the determination by the TCEQ Financial Administration Division regarding the FIP Program.

10. On January 9, 2015, the ED filed an agreed motion to abate the case and to approve stipulations. The purpose of the abatement was to allow time for Respondent to submit financial documents to TCEQ to determine if Respondent qualified for the FIP Program and to allow time for TCEQ to evaluate the financial information. Both the agreed motion to abate and the agreed motion to approve stipulations were granted.
11. Respondent stipulated that: (1) it committed the violation alleged in the EDPRP, (2) a penalty of \$7,500 is the appropriate penalty for this case, and (3) the ED's recommended corrective actions in the EDPRP are appropriate.
12. TCEQ Financial Analyst Donna Chaffin evaluated Respondent's qualifications under the FIP Program. Ms. Chaffin determined Respondent is eligible for a deferral of all but \$3,600 of the penalty. Her analysis was in accordance with FIP Program policies and procedures. Respondent would not sign an agreed order in accordance with the TCEQ Financial Administration Division's determination that Respondent was entitled to a deferral of all but \$3,600.
13. On July 2, 2015, the ED filed a status report requesting that abatement of the case be lifted and informing the ALJ that the ED anticipated filing a motion for summary disposition. The ALJ granted the ED's motion to lift the abatement and ordered that Respondent's response to the motion for summary disposition would be due 14 days after Respondent received the motion.
14. On August 20, 2015, the ED filed a motion for summary disposition of this case and served it on Respondent by electronic mail and on the Office of Public Interest Counsel by electronic mail.
15. The ALJ admitted into evidence the exhibits attached to the ED's motion for summary disposition; granted the motion; and issued a proposal for decision recommending that the Commission find that the Respondent committed the violation alleged, assess the penalty recommended, and order the corrective action recommended in the EDPRP.
16. The exhibits attached to the motion for summary disposition and the pleadings in this case show that there is no genuine issue as to any material fact and the ED is entitled to summary disposition as a matter of law on all of the issues in this case.

II. CONCLUSIONS OF LAW

1. Under Texas Water Code § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code or of the Texas Health & Safety Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.
2. Under Texas Water Code § 7.052, a penalty may not exceed \$25,000 per violation, per day, for each violation at issue in this case.

3. Respondent is subject to the Commission's enforcement authority, pursuant to Texas Water Code §§ 5.013 and 7.002.
4. Additionally, the Commission may order the violator to take corrective action. Texas Water Code § 7.073.
5. As required by Texas Water Code § 7.055 and 30 Texas Administrative Code §§ 1.11 and 70.104, Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violation or the penalty or corrective action proposed therein.
6. As required by Texas Government Code §§ 2001.051 and 2001.052; Texas Water Code § 7.058; 1 Texas Administrative Code § 155.401; and 30 Texas Administrative Code §§ 1.11, 1.12, 39.25, 70.104, and 80.6, Respondent was notified of the hearing on the alleged violations and the proposed penalty and corrective action.
7. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to Texas Government Code chapter 2003.
8. Summary disposition shall be rendered if the pleadings, admissions, affidavits, stipulations, deposition transcripts, interrogatory answers, other discovery responses, exhibits and authenticated or certified public records, if any, on file in the case at the time of the hearing, or filed thereafter and before judgment with the permission of the judge, show that there is no genuine issue as to any material fact and the moving party is entitled to summary disposition as a matter of law on all or some of the issues expressly set out in the motion or in an answer or any other response. 30 Tex. Admin. Code § 80.137(c).
9. Based on the Findings of Fact, summary disposition should be granted to the ED and against Respondent.
10. Respondent violated 30 Texas Administrative Code §§ 330.7(a) and 330.15(c).
11. In determining the amount of an administrative penalty, Texas Water Code § 7.053 requires the Commission to consider several factors, including:
 - a. The violation's impact or potential impact on public health and safety, natural resources and their uses, and other persons;
 - b. The nature, circumstances, extent, duration, and gravity of the prohibited act;
 - c. The history and extent of previous violations by the violator;
 - d. The violator's degree of culpability, good faith, and economic benefit gained through the violation;
 - e. The amount necessary to deter future violations; and

- f. Any other matters that justice may require.
12. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties.
 13. The \$7,500 administrative penalty sought in the EDPRP was properly calculated in accordance with the TCEQ Penalty Policy and in consideration of the factors outlined in Texas Water Code § 7.053.
 14. A penalty of \$7,500 is justified and should be assessed against Respondent. The TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay part of the penalty. Therefore, \$3,900 of the penalty should be deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and should be waived only upon full compliance with all the terms and conditions contained in this Order. The remaining undeferred penalty amount of \$3,600 shall be payable in 36 monthly payments of \$100 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the ED may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order and the ED may demand payment of the deferred penalty amount.
 15. The corrective actions recommended in the EDPRP are necessary to bring the Facility/Site into compliance with the requirements of Texas Health and Safety Code chapter 361 and 30 Texas Administrative Code chapter 330.
 16. Respondent should be ordered to take the corrective actions recommended in the EDPRP.

III. ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 14 for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and the performance of all corrective action listed herein will completely resolve the violations set forth by this Order. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other

violations that are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Keywinn Development LLC, Docket No. 2013-1653-MSW-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088.

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease disposing of any additional MSW at the Site.
 - b. Within 45 days after the effective date of this Order, remove all MSW from the Site and dispose of the MSW at an authorized facility.
 - c. Within 60 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951.

3. The ED may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the ED determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.
4. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
5. The effective date of this Order is the date the Order is final, as provided by 30 Texas Administrative Code § 80.273 and Texas Government Code § 2001.144.
6. The Commission's Chief Clerk shall forward a copy of this Order to Respondent.
7. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

SIGNED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D., P.E., Chairman
For the Commission